



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on November 15, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on November 15, 2023, at 9:31 a.m. On roll call, all elected officials were found to be present except for Council Member Araskog, who arrived at 9:41 a.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore introduced Robin Bernstein, Ambassador to the Dominican Republic.

Ambassador Bernstein stated she was a former Ambassador to the Dominican Republic. Recently, she attended a meeting of an organization in Palm Beach called Safeguard Palm Beach. She was moved by the testimony of a former armed forces member who served during Black Hawk Down. In his testimony, he described what it was like to go in and rescue members who had given their lives to serve overseas to protect America. Ambassador Bernstein remembered being in the United States following the tragic events of 9-11 when the United States was unified. She wondered why the USA was not continuing to show that unity. She asked why Americans were not proudly flying the American Flag on their properties. She said she was proud to be a resident of Palm Beach.

Ambassador Bernstein was distressed as she read in the newspaper that a town in Massachusetts had been flying a Palestinian Flag on the same flagpole as the American Flag. She believes nothing should fly on the same flagpole as the American Flag. She respectfully requested that the same respect be shown for the American Flag, for the people who are overseas, those who have given their lives, and the American hostages. She would like to see more American Flags being flown by the residents of Palm Beach.

Mayor Moore thanked Ambassador Bernstein for her comments and said she shared the

expressed sentiments.

Council President Zeidman thought having a list of times when flags should be taken down, such as rain, would be helpful. Mayor Moore suggested 'How to Fly an American Flag' guidelines be placed on the Town's website.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman announced that the deferral of Ordinances 008-2023 (colonnades and arcades) and 024-2023 (valet parking and parking garages) would be held on December 13, 2023.

Council President Zeidman announced the ZoneCo time certain, 2:00 p.m.

After Council Member Araskog arrived, she requested a few minutes for her comments.

Council President Zeidman stated that she found the Worth Avenue Guidelines to need a reorganization. Council Member Crampton agreed because he thought the guidelines had several openings subject to interpretation.

Council Member Araskog disagreed that the Worth Avenue Guidelines needed to be reorganized. She thought if read very carefully, there was no discretion in the guidelines. She thought the Architectural Commission (ARCOM) and the Landmarks Preservation Commission (LPC) would need to be involved in any review of the guidelines. There was a brief discussion about the Worth Avenue Guidelines.

James Murphy, Assistant Director of Planning, Zoning and Building, agreed that the Worth Avenue Guidelines are convoluted. He said they referenced zoning numbers and almost encouraged or incentivized higher developments. He also said it was important to note that the guidelines were amended in 1998. They were first codified in 1991 and amended to allow the development of the Neiman Marcus building. Mr. Murphy said the town staff were looking more critically at ordinances and working to identify any unintended consequences. He said while he thinks the design guidelines were a good idea, the guidelines did need to be reviewed to identify any necessary revisions.

Council Member Araskog stated she listened to the audio about Zoning in Progress (ZIP) and confirmed that she did not ask for notification on Zoning in Progress.

Mayor Moore said she would continue to advocate for notification of anything the Town Council would be acting on.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

No one indicated a desire to speak.

VI. APPROVAL OF AGENDA

Wayne Bergman, Director of Planning, Zoning and Building, offered the following modifications to the agenda:

Deferral of Resolution No. 038-2023 to January 10, 2024, meeting at the owner's request.

Deferral of the Administrative Appeal 1236 S. Ocean Blvd./200 Emerald Beach Way to the December 13, 2023, meeting.

A motion was made by Council Member Cooney and seconded by Council Member Crampton to approve the agenda as amended. The motion was carried unanimously, 4-0. (Council Member Araskog was not present for this item)

VII. CONSENT AGENDA

- A. **ZON-23-114 375 S COUNTY RD—SPECIAL EXCEPTION** The applicant, Dr. Ofer Shustik MD, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use greater than 3,000 SF in the C-TS zoning district for second-floor medical office.

A motion was made by Council Member Crampton and was seconded by Council Member Cooney to approve the Consent Agenda as presented. The motion was carried unanimously, 4-0. (Council Member Araskog was not present for this item)

VIII. REGULAR BUSINESS

- A. Code Reform Update from Sean Suder, ZoneCo.

Council Member Zeidman said the Council Members were wondering if they would be hearing the entire presentation or if it would be broken into parts. She also asked Mr. Suder to explain the changes made as he proceeded through the presentation.

Sean Suder, ZoneCo, presented an update on the project and the background of the residential districts study. He said all district standards, except for the R-B District, would remain the same in this document.

Council Member Araskog said a group from the north end expressed concerns about R-A and R-AA. She just wanted to make sure those districts would be captured. Mr. Suder said the issues in those areas were straightforward and would be addressed.

Council Member Cooney said that when some of the land use maps were laid out, many cultural or civic institutions pre-dated the adoption of the zoning code. He asked if they may have included them in residential districts to manage and minimize growth in those areas. He said the baseline interest of the community was to tighten the regulations.

Mr. Suder said everything would be allowed under a special exception, requiring site plan review and approval. Nothing would be allowed by right if it did not already exist.

Mr. Suder presented proposed changes to the R-B District. He spoke about the guiding principles for the study, including maintaining property rights, neighborhood character, setbacks, and impervious surfaces. He explained the proposed sub-areas for the R-B District and presented the characteristics of each sub-area. He presented the relationship between building height and the width of the streets. He discussed the impact of setbacks and the differences between the building envelope on wide and narrow streets. He presented establishing the Accessories and Open Space updates for the R-B District.

Mr. Suder presented an overview of the proposed new Residential District Zoning Code sections.

Council President Pro Tem Lindsay said a standard-sized lot in the R-B District

was 100 x 100. However, the average-sized lot was larger. She said that from the presentation, she could not understand how the size of the lot related to the building height. She asked about accessory buildings in the district because, often, that accessory structure became the venue for parties. She thought putting setbacks on the narrow roads could become problematic. Mr. Suder said most structural elements must be within the residential area, but the setbacks could be adjusted as necessary. Council President Zeidman shared Council President Pro Tem Lindsay's concerns. She said on the provided drawings, it looked like the garage structure near the pool was almost a zero-lot line. She asked Mr. Suder if he was looking at a 35% to 40% lot coverage, to which he replied yes.

Council Member Cooney asked if some concerns would be alleviated if a garage were allowed closer, but not a usable cabana or structure. He thought a closer garage structure created a sense of space both for the homeowner and for a better garden area.

Council Member Araskog said at the Planning and Zoning Commission (PZC) meeting, there was concern about dealing with noise and exhaust. She said many of the lots were side by side in the R-B District. There could be an issue with the smaller lots.

Council President Pro Tem Lindsay said a large motor court area could become a real problem for homeowners in the north end. She said it is important to consider the large motor courts that may also be used for recreation. Mr. Suder said the accessories could be further addressed based on the concerns expressed.

Mr. Suder said that a closer review will be warranted regarding the R-C and some of the R-B at the south end. He said these areas would probably change the most over the next few decades. Calibrating those south-end standards to meet a redevelopment code would be essential.

Mr. Suder said the next steps would entail the non-residential areas being reviewed. He anticipated working with the staff on a draft document and thought a presentation would be ready for the Town Council in January.

Council Member Crampton said the six new districts had been created based on context and surroundings. Secondly, standards had been calibrated based on street width. He asked if the same standard would be used in the other five districts. Mr. Suder said the plan was to carry forward what was there now because there were no issues in those districts. Council Member Crampton asked how moderate density and higher density were determined. Mr. Suder said ten units per acre maximum in R-B, and the higher density was a maximum of 13 units per acre.

Council Member Cooney was disappointed to hear that some of the districts were pass-through due to Mr. Suder not hearing of any issues. He thought the area of the town marina was not immune from problems and needed further review.

Council President Zeidman thought the staff could help Mr. Suder meet with some people from the R-A and R-C Districts.

Council President Zeidman called for public comments.

Marty Klein, 1060 N. Ocean Blvd., asked about the relevance of the 1996 private club date referenced in the November 1, 2023, memo. Mr. Suder said that was a grandfathering or rights vested date. Mr. Klein asked if there were

any others after 1996. Mr. Suder responded they were all either approved as a Special Exception or would have to be approved. Mr. Klein asked if existing homes would be grandfathered, to which Mr. Suder replied yes. Mr. Klein said there was also a code provision that said if more than 50% of a home was renovated, the home would have to be brought up to the current code. He hoped Mr. Suder would further visit this, particularly with homes where areas such as the gardens would have to be given up complying with the provision. He advised that the Religious Restoration Freedom Act had been taken into consideration.

Mayor Moore thought Mr. Suder presented a great starting point. She said the Town Council was working methodically through this process.

IX. RESOLUTIONS

- A. **RESOLUTION NO. 038-2023:** A Resolution of the Town Council Of The Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 163 Seminole Ave Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of The Code of Ordinances of the Town of Palm Beach; and Designating said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of The Code of Ordinances of the Town of Palm Beach. (PALM BEACH COUNTY LISTS THE PROPERTY AS 165 SEMINOLE AVENUE)

Owner: Dale Coudert, 2012 Steven H. Rose Trust

The consultants believe that the owner is supportive of the designation.

Please note: This item was deferred to January 10, 2024, meeting at the Approval of the Agenda, Item VI.

X. DEVELOPMENT REVIEWS

A. Appeals

1. **Administrative Appeal 1236 S Ocean Blvd./200 Emerald Beach Way**
Appeal of the decision of an administrative officer regarding a code enforcement case of a fence. The appellant cites zoning code Sections 134-141, 134-1666, and 134-1548 for this appeal.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

1. Old Business

- a. **ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO) - VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story

residence with a new clerestory. The Architectural Commission will perform a design review of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

- b. **ZON-23-054 (ARC-23-064) 1473 N OCEAN BLVD (COMBO) – VARIANCES** The applicants, William C. Powers & Marianne Elaine Elmasri, have filed an application requesting Town Council review and approval for (2) variances from (1-2) north and south side setback requirements. The Architectural Commission shall perform a design review of the application. This item was denied per Section 18-205(a)(4) at the October 25, 2023, Architectural Commission Meeting.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

- c. **ZON-23-088 (ARC-23-120) 1600 S OCEAN BLVD (COMBO) - SITE PLAN REVIEW AND VARIANCES** The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform a design review of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

- d. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

- e. **ZON-23-070 (ARC-23-092) 217 BAHAMA LN (COMBO) - SITE PLAN REVIEW** The applicant, James and Sarah McCann, have filed an application requesting Town Council review and approval for Site Plan Review for the construction of new two-story single-family residence on a non-conforming platted lot which is 90 feet in depth in lieu of the 100-foot minimum depth required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

f. **ZON-23-072 (ARC-23-094) 247-251 WORTH AVE (COMBO).**

The applicant, Holbrook Real Estate LLC, has filed an application requesting Architectural Commission review and approval for a two-story addition to an existing one-story commercial building under the Special Allowances in accordance with the Worth Avenue Design Guidelines, including several variances from lot coverage, floor area square footage, commercial and residential use locations, parking requirements, landscape open space, and loading space requirements. This is a combination project that shall also be reviewed by the Town Council as it pertains to zoning relief/approval.

Ms. Churney swore in those present who would be speaking to the Town Council today.

Ex parte communications were disclosed by Council President Zeidman, Council President Pro Tem Lindsay, and Council Members Araskog, Cooney, and Crampton.

Council Member Araskog thought a discussion should be placed under “Other” regarding letters submitted by board/commission members.

Maura Ziska, attorney for the applicant, addressed the item of concern regarding variances raised by Council Member Araskog in October. She stated that Attorney O’Connor issued a memorandum stating that the applicant was allowed to ask for zoning relief. The second was that some elevation and design changes have been made to the project.

Roger Janssen, Dailey Janssen Architects, presented the updated architectural plans for the proposed project.

Council President Zeidman asked if Mr. Janssen reviewed the plan for the parapet. She thought it was important to acknowledge that the developer had gone to the Historic Preservation Foundation to try to do something in keeping with Art Deco, consistent with the original façade.

Director Bergman provided staff comments, stating this request was a site plan with three special exceptions and six zoning variances. He found this would intensify the site’s current use and may conflict with some areas of the comprehensive plan. In summary, Mr. Bergman said this was about whether the Town Council wanted to see a one-story building become a three-story building.

Assistant Director Murphy provided further comments about the project. He said that since the last meeting, he had met with the applicants to develop some solutions for the project. To address Council Member Araskog’s comments, Mr. Murphy said that while there were aspects of improving the project architecturally, they were not the ones that had been reviewed or seen by staff. He said much of the project was architecturally driven. The Worth Avenue Guidelines did reference that the LPC and ARCOM would weigh in on special allowances, but they

still must be presented to the Town Council for approval.

Council Member Araskog asked Attorney O'Connor what would happen if the Town Council approved additional stories on the building but ARCOM or LPC denied the request. Mr. Murphy said the second floor was a special exception, and the third floor was a special allowance. The only variance pertaining to the floors was what was happening inside the building. ARCOM and LPC should not opine on uses. They can opine on landscaping, massing, or feeling of imposition on the street. In this instance, Mr. Murphy said if it played out favorably, it would be transmitted from the Town Council to ARCOM and back to the Town Council for final approval.

Mr. Bergman said it makes sense for multi-family and commercial projects to be presented to the Town Council first. There was no point for an ARCOM or LPC to spend much time and effort reviewing if the Town Council did not want to see that constructed. He stated that the application could be dissected. Mr. Bergman said this application concerns the second and third-floor additions. If the Town Council decides not to allow the additions, the application will not move forward to ARCOM.

Council Member Cooney explained what led to the creation of the combination project process. He said it was confusing, but the process had merit. He thought it would be wrong for the Council to grant entitlements without the benefit of input from the design review boards. Council Member Cooney asked about the expansion of spaces for existing tenants. He said they lacked an internal staircase, so they were two spaces. Mr. Murphy said the staff memo responded to the application, and the application was seeking to have two stories. The idea was the second floor would be the tailor component of the ground floor. There had been dialogue about incorporating the internal stair. Mr. Murphy said the aggregate square footage would occur without a pass-through wall.

Council Member Crampton asked why a variance was requested to provide no parking. Ms. Ziska said the parking requirement is on-site parking. There was no on-site parking at this location, so a variance was necessary to allow this situation. However, the tenant was one of the owners of the Apollo parking lot, and therefore, no parking issues were being created through the variance request.

Council Member Crampton asked how much discretion the Town Council had in defining intensification and conflict with the comprehensive plan. Mr. Bergman said the comprehensive plan spoke to the intensification and the pressure it added to the town. That was the conflict he found with elements of the future land use element. The intensification was the addition of two stories to the building. Commercial use would be intensified, and residential use would be added.

Council Member Araskog asked if the Town Council had to stay within the comprehensive plan. Attorney O'Connor said the Town Council decision must be consistent with the comprehensive plan. Council Member Araskog asked to see the catwalk illustration, which Mr. Janssen provided. She then asked if the Town had required that spaces

be provided in the past, even if they were off-site. She was concerned that the Apollo lot could change owners at any time. Mr. Murphy said he had never seen any such requirement. Ms. Ziska said there had been situations where parking was leased.

Council President Pro Tem Lindsay asked questions about the dimensions of the building and setbacks. Mr. Janssen provided the information. Council President Pro Tem Lindsay thought Council Member Araskog's question about parking was fair. The required parking needed to be provided in the Apollo lot as a condition.

Council President Zeidman asked if the catwalk in the back existed because the adjacent owner/lessee would not allow an interior stair.

Jane Holzer, the owner, responded that she and her son had asked the adjacent owner/lessee to consider allowing an interior stair, to which they indicated they would not consider it at this time, but Ms. Holzer indicated that she would be asking again.

Council President Zeidman said last month the Council wanted to keep both stairs in the back because they were important from a preservation point of view. Ms. Holzer understood and stated they had done their best to design the stairway to mirror the other stairway.

Council President Zeidman asked about the requirement for the second floor to be 35% of the first floor in square footage. She said that would require the structure to be pulled in on both sides to meet the criteria. This would create structures pulled in rather than infilled, contiguous spaces. Mr. Murphy thought it safe to say that this form would not be a good urban form for commercial development on Main Streets anywhere throughout the country. Council President Zeidman thought it would look too disjointed.

Council Member Cooney was still concerned about intensifying the use. He asked for guidance in understanding the interpretation of the comprehensive plan. He asked how the staff evaluated what was reasonable or too much. Mr. Bergman said looking at sections of the comprehensive plan included in the staff memo; the staff was looking at tourism inflow and intensification that brings people in from off-island locations.

Council Member Araskog expressed concern about the intensification of use in the future if tenants were added. Ms. Ziska said the existing tenants will be signing long-term leases.

Council President Pro Tem Lindsay asked if there would be an elevator in each tenant space. Ms. Holzer said two of the retailers would share an elevator.

Council President Zeidman called for public comments.

KT Catlin, 265 Fairview Road, did not believe the application aligned with the Town's Comprehensive Plan.

Anne Pepper, 333 Seaspray Avenue, thought it was important for this type of issue to be heard by the Town Council before being presented to

the ARCOM. She did not think that the Worth Avenue Guideline criteria were being met by this project. She said this type of request was not in the best interest of the residents. She also mentioned that she thought the Tiffany apartment was generally realized to be a mistake.

Ms. Holzer pointed out that she, Burt Handelsman, and Murray Goodman used their own funds to redo Worth Avenue. They then floated a bond, and only the Worth Avenue landowners paid for it. She said no one else in the Town paid for Worth Avenue.

Ms. Ziska said the commercial area in town was small; therefore, if more retail space was needed, a decision needed to be made on how to satisfy the luxury retailers.

Mayor Moore reminded the Town Council that the commercial district made the Town of Palm Beach special. She pointed out that the Holzer family had a long history in Palm Beach and were the only ones who stepped up to save Worth Avenue many years ago.

Council Member Crampton opined that the building was in proportion and not in conflict with the comprehensive plan. He said there must be room for growth, within reason.

Council Member Cooney was not resolved on the intensification of the project. He commented on the project's design elements and did not feel the intent of the Worth Avenue Guidelines was fully met. He felt that the brand identity of the retailers had the feeling of a mall. He thought the project would be more successful if it were a cohesively designed art deco building.

Council Member Araskog did not feel the project was charming. She also did not think the landscape plan had visual appeal. She thought the additions would create a total canyon effect. Referring to the Worth Avenue Guidelines, Council Member Araskog thought this project was getting too big and did not create a village-like character.

Council President Pro Tem Lindsay said the second floor was a service for the retailers. She also referred to the 800 block of Worth Avenue, where about 80,000 square feet of retail was lost. She said generally, retailers did not prefer second-floor locations. However, they could justify additional floors if they were a strong tenant. She said what bothered her most was that the building was not befitting the rest of the avenue.

Council President Zeidman said she was very concerned about the third floor. She preferred the building to be in keeping with what it was currently and was open to a second floor. She thought the rest of the avenue would follow if the building expanded to three stories. She thought there was a design disconnect between the first and second/third floors. She said it looked like a very large white building despite the design having an Art Deco flair. She did not think the proposed project was in keeping with the Worth Avenue Guidelines and needed more architectural work.

Mayor Moore said there was potential for retail/storage on the second floor as many buildings on the south side. She said there was an existing

retail condition on the second floor in many of the commercial buildings on Worth Avenue.

Council President Zeidman thought ARCOM could help with the additional floor design. She recommended that the Council reach out to Chairman Smith.

Council Member Cooney said there were successful buildings with second floors. He said the existing buildings did not have second-floor setbacks. If second floors were allowed, they must fit in with the streetscape. He expressed concern with some of the variance requests.

Mr. Murphy provided a further explanation of the request for variances. He also stated that the floor area variance would not be necessary if the catwalk did not connect the two individual buildings.

A motion was made by Council Member Araskog that Special Exception No. 23-072 be denied for the reason that granting of special exception 3, for the 3rd story, will adversely affect the public interest and that the specific requirements of section 134-229 items 2, 4, and 8 have not been met and that the rest of the project be sent back to ARCOM for recommendations on the 1st and 2nd stories. The application does not meet the Worth Avenue Guidelines for a 3rd story special allowance. The motion failed due to lack of a second.

A motion was made by Council Member Crampton and seconded by Council Member Cooney to send the project to the Architectural Review Commission (ARCOM) for review of the project to determine if it fits within the ARCOM Ordinances and the Worth Avenue Design Guidelines.

Council President Zeidman asked that the staff prepare a summary of the important points discussed, which include maintaining the smallness of stores, the disconnect between the first-floor design and the second and third floors' new design, the overall monolithic look of the proposed building, and how to move the buildings into compliance with the Worth Avenue Guidelines.

On roll call, the motion was carried 4-1, with Council Member Araskog dissenting.

Clerk's note: A short break was taken at 12:19 p.m. The meeting resumed at 12:28 p.m.

- g. **ZON-23-077 (ARC-23-108) 162 E INLET DR (COMBO) - VARIANCE** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

- h. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCES** The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3- 6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

Please note: This item was deferred to the December 13, 2023, meeting at the Approval of the Agenda, Item VI.

- i. **ZON-23-086 (ARC-23-088) 292 ORANGE GROVE RD (COMBO) – VARIANCE** The applicants, Stephen and Kerri Meyers, have filed an application requesting Town Council review and approval for (1) variance to exceed the maximum Cubic Content Ratio (CCR) for the construction of a new two-story single-family residence. The Architectural Commission shall perform the design review component of the application.

Please note: This item was withdrawn at the Approval of the Agenda, Item VI.

2. **New Business**

- a. **ZON-23-089 (COA-23-031) 223 COLONIAL LN (COMBO)— SITE PLAN REVIEW AND VARIANCE(S)** The applicant, Thomas & Robyn Wasserman, has filed an application requesting Town Council review and approval for variances (2) to allow additions to an existing accessory structure within (1) the required west side yard setback and (2) the required north rear yard setback. The Landmarks Preservation Commission shall perform design review of the application.

Ex-parte communications were disclosed by Council Member Cooney.

Maura Ziska, the applicant's attorney, provided an overview of the project and explained the requested variances.

Daniel Clavijo, SKA Architect + Planner, presented the architectural plans for the proposed additions to the Landmarked residence.

Director Bergman provided staff comments. He said the Landmarks Preservation Commission had granted the floodplain variance by a unanimous vote. The project was before the Landmarks Commission in October and was approved by a vote of 6-1. A motion was made and passed by a vote of 7-0 to support the variances.

Council Member Cooney was pleased with the project. He asked about the scope of the demolition. Mr. Clavijo said the goal was to use the selected demolition approach, knowing the entire structure may have to be demolished.

Council Member Araskog asked about the hardship, to which Ms. Ziska indicated that the property was non-conforming. The property was also a landmark, and the house cannot be demolished. Ms. Ziska said there had not been any letters of objection received from neighbors.

Mayor Moore was pleased with the proposed project.

Council President Zeidman called for public comments.

A motion was made by Council Member Cooney and seconded by Council Member Araskog that Site Plan No. ZON-23-089 be approved based upon the finding that the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met, and that satisfactory provision and arrangement have been made concerning items (1) through (11) of section 134-329. On roll call, the motion was carried unanimously, 5-0.

A motion was made by Council Member Cooney and seconded by Council Member Araskog that Variance No. ZON-23-089 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (A), Items 1 through 7 have been met. On roll call, the motion was carried unanimously, 5-0.

- b. **ZON-23-102 (COA-23-035) 1768 S OCEAN BLVD (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Four Winds Estates LLC (Steve and Christine Schwarzman), has filed an application requesting Town Council review and approval for a Special Exception to install a new padel tennis court with glass-enclosed court walls to replace an existing tennis court. The Landmarks Preservation Commission shall perform a design review of the application.
Please note: This item was withdrawn at the Approval of the Agenda, Item VI.
- c. **ZON-23-103 (COA-23-036) 209 PHIPPS PLAZA (COMBO)— VARIANCES.** The applicant, 209 Phipps Plaza LLC (Greg & Francine Purcell), has filed an application requesting Town Council review and approval for (3) variances, (1) to reduce the required rear street yard setback for installation of an awning, (2) to reduce the required side setback for installation of an awning, and (3) to exceed the maximum lot coverage permitted for the installation of an awning. The Landmarks Preservation Commission shall perform a design review of the application.

There were no ex parte communications disclosed.

Maura Ziska, the applicant's attorney, provided an overview of the project and explained the requested variances.

Daniel Clavijo, SKA Architect + Planner, presented the architectural plans for the proposed awning for the Landmarked residence.

Director Bergman provided staff comments.

Council Member Cooney was pleased with the project. He encouraged everyone to stop by Phipps Plaza; he said it was brilliantly executed and provided one of the best spaces in town.

Council President Pro Tem Lindsay thanked several members of the Garden Club who helped with the project.

Council President Zeidman called for public comments.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay that Variance No. ZON-23-103 shall be granted and find, in support thereof, that all the criteria applicable to this application as set forth in Section 134-201 (A), Items 1 through 7 have been met. On roll call, the motion was carried unanimously, 5-0.

Clerk's note: A lunch break was taken at 12:55 p.m. The meeting resumed at 1:49 p.m.

I. ORDINANCES

A. First Reading

1. **ORDINANCE NO. 017-2023**: An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 18, Buildings and Building Regulations, Specifically at Article IV, Florida Building Code, Section 18- 232, Definitions, Section 18-235, Building Division, and Section 18-237, Agreed Maximum Time Schedule for Completion of Major Construction; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Mr. Bergman stated that at the September meeting, the Town Council directed the staff to prepare an ordinance to expand and formalize neighbor notice of time extensions and provide staff with limited capability to extend permits for up to 30 days administratively. All changes would occur within Chapter 18 of the Code of Ordinances. Mr. Bergman said during the review of the draft ordinance, the Town Council requested that a one-time fee for permit extensions be added to the ordinance. He said the staff was proposing an addition to Section 18-240, which would provide a fee for permit extensions. That fee would be 1% of the value of unfinished construction work at that time, and it would be in addition to the normal permit value updates and final cost certification.

Council Member Crampton asked Mr. Bergman to review specifics regarding time extensions. Mr. Bergman responded that all requests would be presented to the Town Council. Instead of someone sending an e-mail to Mr. Bergman, there would have to be notice from the contract and property owner to all neighbors within 300 feet, 30 days prior to the council meeting. In addition, if approved by the Town Council, the permit holder would pay a fee of 1% of the value of finished construction instead of the current fee of \$500.

Council President Pro Tem Lindsay said there were still some supply chain issues. It has also been clear that many of the changes were owner-generated. She said the Town was incentivizing owners to think about key things that may delay the construction process. She had spoken with several contractors who work in the north end. They have told her that they tell their clients upfront that if certain changes are made, there could be supply chain issues. She thought that a notice of these changes should be sent to contractors.

Mr. Bergman read Ordinance No. 017-2023 by title only.

A motion was made by Council Member Crampton and was seconded by Council Member Araskog to approve Ordinance No. 017-2023 on the first reading. The motion was carried unanimously, 5-0.

B. Time Extensions, Waivers and Three-Strike Matters

1. Three Strikes & Stop Work Order for 410 S County Rd

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the stop work order for 410 S. County Road. He said all of the three strikes occurred during five days in October. An appeal was made to Chief Caristo, and he reviewed the details and denied the appeal on November 1, 2023. This matter was here for the three strikes and was on the agenda for a permit extension to continue working beyond November 1, 2023.

J. Blake Beeson, J. Scott Development Company, LLC, spoke about the three strikes received.

Mitchell Siegel, store owner of Cocoon, discussed his store in Naples, Florida. He indicated that he would not allow any more strikes to occur in the build-out of his new store in Palm Beach.

Council President Zeidman called for public comments. No one indicated a desire to speak.

A motion was made by Council Member Araskog and seconded by Council Member Crampton to waive the third strike and allow the applicant to apply for a right-of-way permit. The motion was carried unanimously, 5-0.

2. Waiver of Town Code Section 18-237, For Building Permit Extension for 253 Seminole Ave

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request. He said the permit began in August 2021, was valid for 16 months, and expired in December 2022. The contractor did not explain the reasons for the delay or the need for additional time. Two neighbors submitted letters regarding the request.

Greg Giuliano, Greg Guiliano Construction Inc., discussed the remaining work to complete the residential project. He outlined the time requested to finish the work.

Council President Pro Tem Lindsay had concerns about allowing the contractor to continue during the season.

Council President Zeidman called for public comments.

Wylene Commander, 256 Everglade Avenue, and rear neighbor stated she had suffered with dirt in her swimming pool, noise, and language she heard from the contractors. Her bedroom was approximately 16 feet from the pool, and she objected because the pool would be on the property line. She said a variance was granted (Variance No. Z-21-00342) on May 12, 2021. She said she did not fight the variance at that time. She said the pool was closer to her house than the owner's.

A motion was made by Council Member Araskog and seconded by Council Member Cooney to approve the extension request for exterior work to occur until December 22, 2023, and interior work to occur until February 16, 2024, with the condition that no work shall occur during the holiday hours listed in the Code, and that screening shall immediately be installed to protect the rear property owner, the newly installed trees in the rear of the property must be consistent with the plans approved by the Architectural Commission and must be trimmed so not to affect the rear neighbor's hedging material. The motion was carried unanimously, 5-0.

3. Waiver of Town Code Section 18-237, For Building Permit Extension for 221 Monterey Rd.

When this item was called, there was no representation for the request.

A motion was made by Council Member Araskog and seconded by Council Member Crampton to defer the request to the meeting on December 13, 2023. The motion was carried 4-1, with Council Member Cooney dissenting.

After the hearing of 346 Seaspray Avenue, Council Member Araskog requested a reconsideration of this item.

A motion was made by Council Member Araskog and was seconded by Council President Zeidman to reconsider the previous motion made for the building permit extension for 221 Monterey Road. The motion was carried unanimously, 5-0.

While there was no representation for the item, there was a consensus and understanding that the remaining work was minimal, and the time was needed to close the project.

A motion was made by Council Member Cooney and was seconded by Council Member Araskog to approve the request as presented. The motion was carried unanimously, 5-0.

4. Waiver of Town Code Section 18-237, For Building Permit Extension for 346 Seaspray Ave.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request. He stated that the work on this project began in May 2021. The residential alteration permit was valid for 30 months and expired on November 24, 2023. The contractor explained in a letter dated November 1, 2023, that the site constraints and roadway undergrounding delayed the work. The proposed schedule showed all work being completed by the end of January.

Matt Corson, Cury Group, explained the project and the reason for requesting an extension to complete the work.

Council President Zeidman called for public comments. No one indicated a desire to speak.

A motion was made by Council Member Cooney and seconded by Council President Pro Tem Lindsay to approve the request as presented. The motion was carried unanimously, 5-0.

5. Waiver of Town Code Section 42-199, For Building Permit Extension for 410 S County Road, Cocoon Palm Beach

A motion was made by Council Member Araskog and was seconded by Council Member Cooney to approve the extension to December 22, 2023, with the conditions that no work shall occur during the holiday hours listed in the Code, there shall be no work on the Wednesday, Thursday, or Friday of the week of Thanksgiving, the allowable work hours shall be 8 a.m. to 8 p.m., there shall be no work on Saturday or Sunday, and that if there were any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.

II. ANY OTHER MATTERS

Council Member Araskog asked Attorney Joanne O'Connor if Commissioners needed to recuse themselves from a discussion if they previously wrote a letter of support or objection for the project. Attorney O'Connor indicated that she would need to see the letters to determine if they required recusal. She said the attorneys would be prepared to discuss this at the December meeting.

III. ADJOURNMENT

A motion was made by Council Member Araskog and seconded by Council Member Cooney to adjourn the meeting at 4:09 p.m. The motion was carried unanimously, 5-0.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Kelly Churney, Acting Town Clerk
Date: _____